

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

New Hampshire Lottery Commission,
et al.

v.

Case No. 19-cv-163-PB

William Barr, in his official
capacity as Attorney General of
the United States of America,
et al.

O R D E R

Shortly before I issued the order granting summary judgment to the plaintiffs in this case, the Coalition to Stop Internet Gambling and the National Association of Convenience Stores filed a joint motion to intervene. See Doc. No. 80. I previously granted their request to appear as amici in support of the government; they submitted legal memoranda and participated in oral argument. They now argue intervention is necessary to prevent the possibility that "this Court or the Court of Appeals [will] conclude that the Wire Act does not apply to Plaintiffs because of the 'whoever' language" in that statute. See Doc. No. 80-1 at 2. This refers to the Lottery Commission's argument that state agencies, their employees, and state vendors are exempted from the Act's proscriptions. I declined to reach that issue in my decision. See [N.H. Lottery Comm'n v. Barr](#), 2019 DNH 091, 2019 WL 2342674, at *8 n.6 (D.N.H.

June 3, 2019) ("Given that I construe the Wire Act to be limited to sports gambling, I need not reach the viability of the Commission's Dictionary Act argument.").

In the unlikely event that issue emerges on appeal, I am confident that the Court of Appeals will give careful attention to any amicus brief the putative intervenors may choose to file. Accordingly, I am unpersuaded that their interests will be inadequately represented on appeal. See Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll., 807 F.3d 472, 475 (1st Cir. 2015) ("[W]e require putative intervenors to produce something more than speculation as to the purported inadequacy of representation.") (citation and internal quotation marks omitted); Pub. Serv. Co. of N.H. v. Patch, 136 F.3d 197, 207 (1st Cir. 1998) ("A party that seeks to intervene as of right must produce some tangible basis to support a claim of purported inadequacy.").

For the same reason, I decline to offer permissive intervention.

The motion to intervene (Doc. No. 80) is denied.

SO ORDERED.

/s/ Paul J. Barbadoro
Paul J. Barbadoro
United States District Judge

June 20, 2019

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